

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAP AKTIENGESELLSCHAFT,

No. C 07-04187 SBA

Plaintiff,

**ORDER FOR PRETRIAL
PREPARATION IN PATENT CASES**

v.

I2 TECHNOLOGIES, INC.,

Defendant.

Pursuant to Rule 16(e) of the Federal Rules of Civil Procedure ("FRCP"), IT IS HEREBY
ORDERED AS FOLLOWS:

A. DISCOVERY CUT-OFF

All discovery, except for expert discovery, shall be completed and all depositions taken on or before **NOT SET**. The parties are responsible for scheduling discovery so that motions to resolve discovery disputes can be heard before the above discovery cut-off.

B. EXPERT DESIGNATION AND DISCOVERY

Plaintiff shall designate any experts by **NOT SET**; defendant by **NOT SET**; rebuttal disclosure by **NOT SET**. Any expert not so named may be disallowed as a witness. No expert will be permitted to testify to any opinion, or basis or support for an opinion, that has not been disclosed in response to an appropriate question or interrogatory from the opposing party. Expert discovery shall be completed by **NOT SET**.

C. MOTION CUT-OFF

All dispositive motions shall be heard on or before **1/13/09**, at 1:00 p.m. The parties must meet and confer prior to filing any motion. The movant shall certify to the Court in its moving papers that it has complied with this requirement. Should the parties fail to meet and confer, the Court may decline to entertain the motion.

THIS COURT DOES NOT RESERVE MOTION HEARING DATES. The parties are advised to contact Judge Armstrong's Deputy Clerk, Lisa Clark, to determine the next available hearing date, particularly in the case of dispositive motion. The parties are advised not to wait until 35 days prior to the law and motion cut-off date to file and serve their motion. As the Court's law and motion calendar tends to fill quickly, there is no guarantee that a hearing date within the law and motion cut-off date will be available.

Pursuant to Civil Local Rule 7-1, 7-2 and 7-3, all civil motions shall be noticed for a hearing not less than thirty-five (35) calendar days after service. The opposition and supporting papers shall be filed not less than twenty-one (21) days before the noticed hearing date. The reply shall be filed not less than fourteen (14) days before the hearing date. Documents not filed in compliance with these time specifications will not be considered by the Court.

The failure of the opposing party to file a memorandum of points and authorities in opposition to any motion shall constitute a consent to the granting of the motion.

The parties are not required to file a statement of undisputed facts in connection with a motion for summary judgment. However, if filed only one joint statement of undisputed facts signed by all parties, shall be filed. All separate statements will be stricken. If the parties are unable to agree that a fact is undisputed, they should assume that fact is in dispute.

Note that pursuant to Civil L.R. 7-1(b), the Court may, in its discretion, adjudicate motions without oral argument.

D. MANDATORY SETTLEMENT CONFERENCES

All parties are ordered to participate in a mandatory settlement conference during the following time period: ***BETWEEN 1/14/09-1/30/09 BEFORE A MAGISTRATE JUDGE.***

E. PRETRIAL CONFERENCE

All Counsel who will try the case shall appear for a pretrial conference in Courtroom 3 on ***3/3/09***, at 1:00 p.m. All counsel shall be fully prepared to discuss all aspects of the trial. Failure to file the requisite pretrial documents in advance of the pretrial conference may result in vacation of the pretrial conference and/or the imposition of sanctions.

F. PRETRIAL PREPARATION DUE 2/3/09

1. Not less than thirty-five (35) calendar days prior to the pretrial conference, Counsel shall meet and confer in good faith in advance of complying with the following pretrial requirements in order to clarify and narrow the issues for trial, arrive at stipulations of facts, simplify and shorten the presentation of proof at trial, and explore possible settlement. In addition, Counsel shall meet and confer regarding anticipated motions in limine, objections to evidence, jury instructions, and any other matter which may require resolution by the Court.

2. The following matters shall be accomplished no later than thirty-five (35) calendar days prior to the pretrial conference:

a. Joint Pretrial Statement

Counsel are required to file a pretrial conference statement which complies with Civil L.R. 16-15(b).

b. Trial Briefs

Each party shall serve and file a trial briefs which shall briefly state their party's contentions, the relevant facts expected to be proven at trial, and the law on the issues material to the decision.

c. Findings of Fact

In non-jury cases, each party shall serve and lodge with the Court proposed findings of fact on all material issues and conclusions of law. Findings shall be brief, clear, written in plain English and free of pejorative language, conclusions and argument.

d. Witnesses

Each party shall serve and file with the Court a list of all persons who may be called as witnesses. The list shall include a summary of the substance of each witness' proposed testimony. (Civil L.R. 16-15(4)(A))

e. Designation of Discovery Excerpts

Each party expecting to use discovery excerpts as part of its case in chief shall serve and lodge with the Court a statement identifying (1) by witness and page and line, all deposition testimony and (2) by lodged excerpt, all interrogatory answers and request for admissions to be used as part of its direct case. Each interrogatory answer intended to be offered as an exhibit shall be copied separately and marked as an exhibit. The original of any deposition to be used at trial must be produced at the time of trial. (Civil L.R. 16-15(4)(E))

f. Jury Instructions

The parties shall file a joint set of jury instructions as to those instructions on which the parties have reached agreement. As to any disputed instructions, each party shall separately submit its "proposed" instruction(s) supported by a memorandum setting forth the authority for its use. Responses or objections to any "proposed" jury instruction shall be filed no later than the date of the pretrial conference. All instructions shall be written in plain English which is comprehensible to jurors, concise and free of argument, and shall be organized in a logical fashion so as to aid jury comprehension, and are also to be provided on a 3.5" computer disk. The Court's practice is to utilize, whenever possible, instructions found in the Ninth Circuit Manual of Model Jury Instructions.

g. Jury Voir Dire and Verdict Forms

Each party shall submit proposed questions for jury voir dire and a proposed form of verdict.

h. Exhibits

Each party shall provide every other party one set of all exhibits, charts, schedules, summaries and diagrams and other similar documentary materials to be used at the trial together with a complete list of all such exhibits. The Court requires one original version of exhibits (as described above) for the Clerk and two copies (one for the Bench and one for the witness stand). All such versions of the exhibits, including the originals, should be indexed into a binder for easy and quick reference by all parties. The first page of each binder should have a copy of the exhibit list (see attached) appropriately completed with each exhibit description and its designated number. Plaintiffs shall refer to their exhibits numerically and Defendants shall label theirs alphabetically. Exhibit labels are also attached for your convenience. Exhibits should be brought to Court on the first day of trial.

3. The following matters shall be accomplished no later than twenty-eight (28) calendar days prior to the pretrial conference: Motions in Limine and Objections to Evidence due: **2/10/09**. Each party anticipating making motion(s) in limine and/or objection(s) to any testimony or exhibits expected to be offered shall file and serve a statement briefly identifying each item objected to and the grounds for the objection.

4. Responses to objections to evidence or motions in limine shall be filed and served no less than twenty-one (21) calendar days prior to the pretrial conference due: **2/17/09**.

H. TRIAL DATE

Trial before the **JURY** will begin on **3/16/09**, at 8:30 a.m., for an estimated **10** trial days, or as soon thereafter as the Court may designate. The parties are advised that they must be prepared to go to trial on a trailing basis. The trial will take place in Courtroom 3 of the United States Courthouse, 1301 Clay Street, 3rd Floor, Oakland, California, 94612. The Court's trial hours are from 8:30 a.m. to 2:00 p.m., with two fifteen-minute breaks, on Monday, Wednesday, Thursday and Friday.

I. TRANSCRIPTS

If transcripts will be requested during or immediately after the trial, arrangements must be made with the Court Reporter Coordinator (Telephone No. 510-637-3534) at least one week before trial commences.

J. STATUS AND DISCOVERY CONFERENCES

Any party desiring to confer with the Court may, upon notice to all other parties, arrange a conference through the courtroom deputy (Telephone No. 510-637-3541). Conferences may be conducted telephonically, upon request (preferably in writing).

K. SANCTIONS

Failure to comply with this order may result in the imposition of sanctions pursuant to FRCP 16(f).

L. OTHER DEADLINES

L/D to serve Preliminary Infringement Contentions and make available documents accompanying disclosure January 4, 2008

L/D to serve Preliminary Invalidity Contentions and make available documents accompanying disclosure February 18, 2008

L/D to Join Parties or Amend Pleadings March 1, 2008

L/D to simultaneously exchange Proposed Terms and Claim Elements for Construction March 3, 2008

L/D to simultaneously exchange Preliminary Claim Construction and Preliminary Identification of Extrinsic Evidence March 24, 2008

L/D to file/serve Joint Claim Construction and Prehearing Statement April 18, 2008

Initial Expert Disclosures and Reports on Claim Construction May 2, 2008

Claim Construction Prehearing Conference
COURT WILL SCHEDULE IF NEEDED

Completion of Claim Construction Discovery May 19, 2008

L/D to file/serve Opening Claim Construction Brief June 2, 2008

L/D to file/serve Responsive Claim Construction Brief June 16, 2008

L/D to file/serve Reply Claim Construction Brief June 23, 2008

Claim Construction Hearing 2.5 to 3.5 hours July 9, 2008 at 9:00 a.m. to be
followed by a Case Management Conference.

Fact Discovery Closes & L/D to Serve Supplemental Disclosures NOT SET

L/D to Serve Final Infringement Contentions NOT SET

L/D to Serve Final Invalidity Contentions NOT SET

L/D for Parties to Exchange Opening Expert Disclosures and Reports NOT SET

L/D for Parties to Exchange Rebuttal Expert Disclosures and Reports NOT SET

Expert Discovery Closes NOT SET

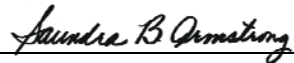
L/D to HEAR Dispositive Motions SEE ORDER

L/D to File Joint Pretrial Statement SEE ORDER

Final Pretrial Conference SEE ORDER

IT IS SO ORDERED.

Dated: 1/18/08


SAUNDRA BROWN ARMSTRONG
United States District Judge